

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

ANDRE' WILSON,

Plaintiff,

v.

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CIVIL ACTION NO. 1:08CV202  
(Judge Keeley)

DELMOS GRAHAM and  
JAMES SMITH,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION (DKT. 118), DENYING  
PLAINTIFF'S MOTION SUMMARY JUDGMENT (DKT. 101), GRANTING  
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT (DKT. 103) AND DISMISSING  
COMPLAINT WITH PREJUDICE

Pending before the Court is the Report and Recommendation of United States Magistrate Judge David J. Joel, dated March 22, 2010 (dkt. 118) ("R&R"). The R&R recommends that the motion for summary judgment of the pro se plaintiff, Andre Wilson ("Wilson"), be denied, that the motion for summary judgment of the defendants, Delmos Graham and James Smith, be granted, and that the case be dismissed with prejudice.

The R&R also explicitly warns that the failure of any party to object to the R&R within fourteen days of receiving service constitutes a waiver of appellate rights on the issues presented. Wilson received service of the R&R on March 25, 2010. (Dkt. 119.) No party has objected to the R&R. The Court therefore **ADOPTS** the R&R (dkt. 118) in its entirety, **DENIES** Wilson's motion for summary

**ORDER ADOPTING REPORT AND RECOMMENDATION**

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judgment (dkt. 101), **GRANTS** the defendants' motion for summary judgment (dkt. 103), and **DISMISSES** this case **WITH PREJUDICE**.

It is so **ORDERED**.

The Court **DIRECTS** the Clerk to issue a separate judgment order pursuant to Rule 56(c) and to transmit copies of both orders to counsel of record and to the pro se plaintiff via certified mail, return receipt requested.

DATED: April 15, 2010

/s/ Irene M. Keeley  
IRENE M. KEELEY  
UNITED STATES DISTRICT JUDGE